

Executive Registry

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STATINTL



CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D. C. 20505

February 19, 1976

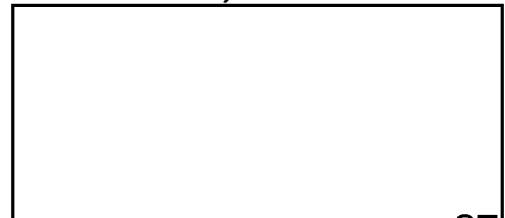
The Honorable Charles Percy
The United States Senate
Washington, D. C. 20510

Dear Senator Percy:

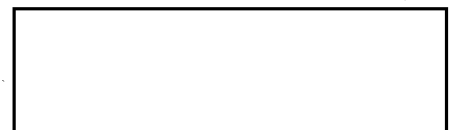
I thought you might be interested
in the enclosed. It is the longer
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STATINTL

Cheers,



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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D. C. 20505

February 19, 1976

The Honorable Abraham Ribicoff
The United States Senate
Washington, D. C. 20510

Dear Senator Ribicoff:

I thought you might be interested
in the enclosed. It is the somewhat
longer version of a piece that was
run in the Washington Post earlier
this week.

Cheers,

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STATINTL

February 19, 1976

Mr. Robert Meyers
Publisher
The New Republic
19th Street
Washington, D. C.

Dear Bob:

I wrote the enclosed for the Washington Post and they extracted a portion of it for their Op Ed page. I thought perhaps the longer version might be of interest to the New Republic. If it is, give me a call and if not, "so it goes."

Cheers,

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Article Prepared by



and

Submitted to the
Washington Post on
3 February 1976

STATINTL

2 February 1976

The Intelligence Community of the United States has in the last year gone through a searing experience. Its failures have been headlined. Its successes ignored. Its secrets unmasked. But in the process the Community has learned a great deal. Most significantly it has learned that the operation of an intelligence service within the Constitution is a shared responsibility, and that, in the future, Congressional oversight must play an important role. It still remains for the parties to this constitutional marriage to learn how to accommodate each other's legitimate needs-- otherwise an intelligence service under the Constitution will not come to pass.

Congress must effectively oversee the work of the intelligence agencies. This much is agreed upon by all sides. As a concept, however, "oversight" can be every bit as elusive as the bluebird of happiness. Oversight is in essence, the Congressional power to ascertain on a permanent basis that the intelligence agencies are operating in accordance with the laws passed by the Congress. Simply defined, Congressional oversight means that "there shall be no surprises." Oversight works when the intelligence agencies keep Congressional committees informed of "where they have been" and what they plan to do next.

For oversight to be effective both Congress and the Executive Branch must give up their "absolutist" claims, their wooden insistence on their constitutional prerogatives. At the very least, they must not push their claims to the point at which these assertions produce a stalemate. History has demonstrated that compromise between Congress and the Executive Branch can make a seemingly cumbersome form of constitutional government work smoothly.

The "watchdog" function of Congress will be effective only if the oversight committee is privy to the CIA's secrets. The Committee, however, will only become privy to such secrets if the Agency is satisfied that the Committee can keep secrets. But the Committee does not exist simply to act as a receptacle for CIA secrets. Such a Committee has a dual, and paradoxical function: to disclose information where the Committee deems disclosure to be in the public interest. And here is the rub--the contradiction between the Committee's duty both to receive secrets and retain the confidence of the Intelligence Community and on the other hand to report to Congress and to the American people on the secret work of the Community.

Where such reporting hazards secrets that--at least in the judgment of the Executive Branch--should be safeguarded the decision to publish the secrets and be damned cannot remain in the hands of the Committee alone.

A classic case in point was the insistent attempt last week by the House Select Committee on Intelligence to publish a report with material whose disclosure, as the President certified, would be "detrimental to national security." The nine members of the Committee majority who voted to disclose comprised only two percent of the House of Representatives.

Would the Congress really wish to delegate the power to override the President's decision on such important matters to so small a group? Our Constitution suggests a method for dealing with the problem. If the Congress is to have the power to overrule the President's determination that to publish intelligence secrets would be detrimental to the national security, this should be done by a vote of 66 2/3rds percent of both Houses of Congress--the number required to override a Presidential veto. In resolving this problem, it must be recognized that the nation's secrets are not the private property of any one congressional committee, the Congress itself or the Executive Branch. Such matters dealing with the security of the nation belong

to the people and the Executive and Legislative Branches of government must act jointly for their safeguard.

Yet how shall we deal with the case of an individual member who believes that a secret document should be made public? Procedures should be established within Congress for an individual member to appeal an Executive Branch decision that bars disclosure of classified information. A Member should, as a matter of right, be able to put his case to the appropriate oversight committee, and, if necessary, to the whole body of Congress concerned in executive session. He would thus have some help in resolving the agonizing moral dilemma of whether to "go public" or not.

In the long run, good oversight relationships would obviate the need for frequent reliance upon such "appellate procedures." When disclosures of classified information are proposed by the Committee, alternative language can often be suggested by the Intelligence Community so as to avoid compromising secrets that must be safeguarded or the means of gathering such information.

To make Congressional oversight truly effective, serious thought must also be given to sanctions against those who are entrusted with secrets and decide to leak them. While the application of sanctions should be limited to those who voluntarily undertook an

obligation of secrecy as an aspect of employment, such sanctions should not only apply to Executive Branch employees, but also to staff and Members of Congress. With respect to Members of Congress, the application of sanctions could, of course, only be undertaken by the appropriate House.

Recent experience has made it clear that investigating "leaks" is at best difficult, and at worst dirty. We must face the fact that as a nation we do have legitimate secrets. Unauthorized disclosure by either Branch, which amounts to de facto declassification, is an unacceptable alternative. Indeed, Chairman Otis Pike of the House Select Committee on Intelligence indicated--after draft copies of his Committee's final report found their way into the hands of the press--that ending the life of his Committee appeared to be the only way to cope with leaks.

We have yet to develop a successful mechanism for inquiry into national trauma. The experience with the House Select Committee, while underscoring this, highlighted the need for effective Congressional oversight and in doing so focused sharply on the flawed fabric with which we currently work. We need protection for those secrets worth keeping and a system for those entrusted with secrets to measure their worth.

Executive Registry

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

76-6661/2

February 17, 1976

Baric
Perkins
37.6

Mr. Victor Zorza
John Hopkins School of Advanced
International Studies
1740 Mass. Avenue N.W.
Washington, D. C. 20036

Dear Mr. Zorza:

I learned late last night that a portion of the article I wrote regarding Congressional Oversight of the Intelligence Community was to be published in the Washington Post today with other pieces on the intelligence business. In light of our prior discussions I am at a loss to understand why the Washington Post undertook to publish this piece without my approval. What follows is a detailing of our numerous discussions regarding this ill-fated venture.

As you may recall, on January 29 you were kind enough to invite me to write 750 words on the subject of the House Select Committee's investigation of the Intelligence Community. You explained at the time that my piece would be responded to by Otis Pike, Chairman of the House Select Committee. To facilitate Mr. Pike's response, in order that the two articles could be published the following Monday, you asked me to have a draft ready for Otis Pike within 24 hours. Thereafter, copies of my first draft were hand delivered to you and Mr. Pike. Over the weekend you dictated your comments on my draft to a secretary at the CIA and these comments were transcribed and delivered to me over the weekend so as to meet the Monday publication date.

On Monday, while speaking to Otis Pike on another matter, I learned that he was not planning to respond to my article. When I told you that this was the case, you indicated that another member of the Committee might be asked to respond. Subsequently, you told me that Congressman Les Aspin was going to reply.

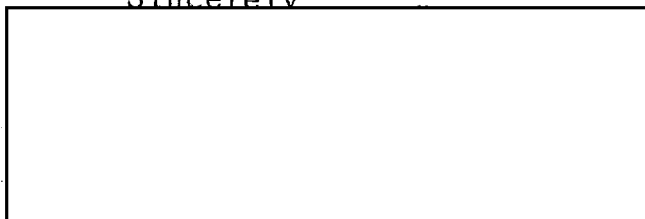


Apparently, Mr. Aspin decided not to respond because you later advised that Senator Church would reply to the piece for publication the following Monday. When, for reasons best known to the Post, Senator Church's response was determined to not adequately relate to the issue, you indicated that you would speak to Philip Geyelin regarding the publication of my piece without a response by one of the members of the Select Committees. At this point I was exhausted and somewhat distressed at the checkered history of this venture and indicated to you that I would undertake to place the article myself if there were no assurances of publication. In light of all that I had gone through to produce the piece in a timely fashion, you were most appreciative of my concerns. The following day you advised that Mr. Geyelin was not going to publish the article. At that time I told you that I was planning to publish it elsewhere. You then, as a friendly gesture, offered to contact the New York Times to see if they wished to publish the article. I told you that that would be fine with me. I heard no further from you although I did check on February 13 with John Oakes' office to determine whether the piece had been forwarded to the New York Times and told his secretary that I would be forwarding a copy of the article for their consideration.

With this abysmal background, I think you can understand my dismay in finding my article placed in a pot pourri of pieces on the intelligence business in this morning's Post. When I initially submitted my article for publication it was with the clear understanding that it was to be run as a "point-counterpoint" article and that I would have at least 750 words to express myself. I would very much appreciate an explanation regarding the Washington Post's misuse of this article.

STATINTL

Sincerely



cc: Philip Geyelin

Executive Registry

No label

3 February 1976

Mr. Victor Zorza:

We have gotten down to 770 words without changing the context. If you have any suggestions as to changes please let me know since I revere each of the words as they now are.

As far as identification for me, I am a practicing attorney in Washington, D. C. and, as you know, Special Counsel to the Director of Central Intelligence.

Cheers,



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SCI kept

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